

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

P. H. GLATFELTER COMPANY,	:	Civil No. 1:19-CV-02215
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
BABCOCK & WILCOX POWER	:	
GENERATION GROUP, INC.,	:	
	:	
Defendant.	:	Judge Jennifer P. Wilson

**ORDER**

**AND NOW**, on this 14th day of December, 2020, for the reasons set forth in the accompanying memorandum, **IT IS ORDERED THAT:**

1. Plaintiff's claims for fraud and negligent misrepresentation will be dismissed without prejudice to Plaintiff amending its complaint;
2. Plaintiff's claims for promissory estoppel and unjust enrichment will not be dismissed;
3. The court declines to make a determination regarding the enforceability and extent of a contractually-imposed cap regarding Plaintiff's damages claims before it has determined whether the parties' underlying contract is valid. However, in the event that the parties' contract is found to be valid, the court finds that Plaintiff's claims for damages will be limited

by the terms of the parties' contract as explained in this memorandum;  
and

4. "Babcock & Wilcox Power Generation Group, Inc." will be dismissed from this case, but out of an abundance of caution, "Babcock & Wilcox Enterprises, Inc." will remain in this case. The parties may stipulate to whether this entity remains subject to this litigation, or Defendant may re-raise this issue at a later time once the parties have the benefit of discovery in this case.

s/Jennifer P. Wilson  
JENNIFER P. WILSON  
United States District Court Judge  
Middle District of Pennsylvania